



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

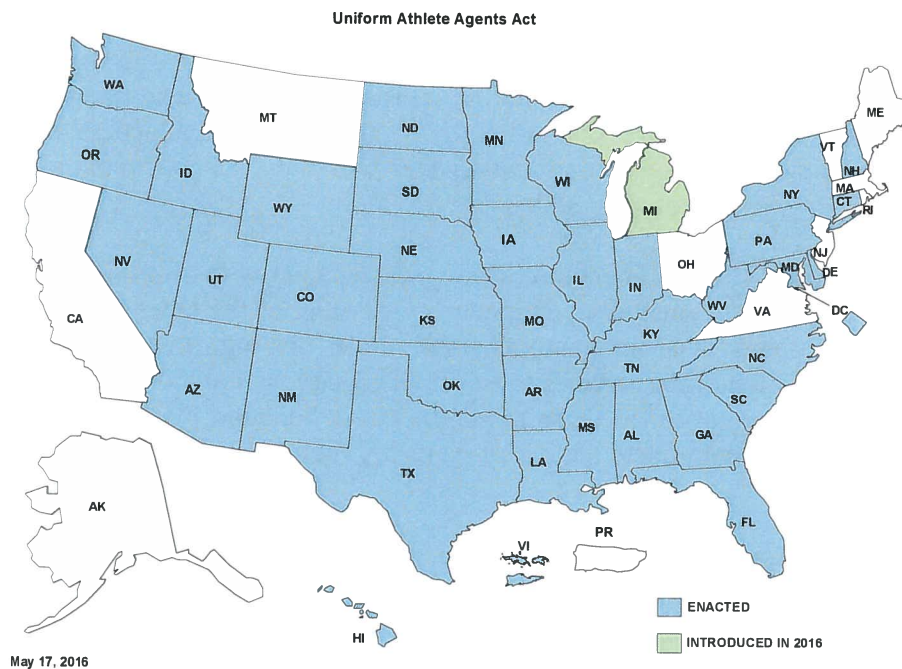
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Statement of Brian Lewis, Legislative Counsel from the Uniform Law Commission, to the Committee on Regulatory Reform in support of House Bills 4838 and 4839 – The Uniform Athlete Agents Act.

Chairman Franz and Members of the Committee:

Thank you for considering House Bills 4838 and 4839, the Uniform Athlete Agents Act (UAAA), promulgated by the Uniform Law Commission (ULC). The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable.

Michigan has a long and successful history of enacting ULC acts, including the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Probate Code, the Uniform Transfers to Minors Act, the Uniform Trust Code, as well as others.



The UAAA was drafted at the urging of the National Collegiate Athletic Association. The UAAA is the product of more than 3 years of drafting effort, incorporating the views of neutral legal experts, university representatives, athletic conferences, and professional sports agents.

The impetus for the UAAA was a steady stream of incidents where student-athletes were persuaded by unscrupulous agents to accept payment or other consideration in exchange for exclusive representation. These agency agreements are fine if the student-athlete has completed

his or her collegiate career, or explicitly intends to go pro early. Under NCAA rules (bylaw 12.3), however, if a student-athlete accepts money, clothes, trips, or other consideration (or directs the same to family members or friends) as part of an agency agreement (for present or even future representation), that student loses his or her eligibility to compete. This can cause students to lose scholarships and face sanctions they might not expect. If the ineligibility is not disclosed to the school, and an ineligible athlete is allowed to compete in violation of the rules, that school may face a wide variety of sanctions, including suspensions, fines, and the possible loss of post-season play and all the revenue that this might represent.

The UAAA is designed to address this problem in three principal ways.

First, it requires agents to register with each state where he or she will do business, and as part of that registration the agent is required to disclose licensing history in other states, education, training, experience, past business practices (including any suspensions, sanctions, or other penalties associated with that agent's conduct), criminal and administrative judgments, and client lists for the past five years. The House Bill 4838 also requires agents to maintain extensive records along these lines, which would be open for inspection by the Department of Licensing and Regulatory Affairs (LARA). These disclosures will give students, parents, and institutions access to important consumer information, and allow student-athletes to make informed decisions about agent representation.

Second, the UAAA requires both the agent and the student-athlete to notify the athletic director of their school (or of the school where they are reasonably expected to attend) of an agency agreement, within 72 hours of entering it or before the next scheduled athletic event in which the athlete might participate, whichever comes first. This will allow schools to avoid sanctions that might result from playing an ineligible athlete.

Third, the House Bill 4838 would require agency agreements with student-athletes to contain several protective provisions, including a mandatory warning of the potential loss of eligibility, detailed disclosure about what is being charged under the agreement and who is being compensated, a description of the services to be provided, and the duration and date of execution. A contract that fails to conform to these requirements is voidable by the student-athlete, and under the UAAA the student-athlete has a non-waivable right to cancel the agreement within 14 days of its execution.

With the enactment of House Bills 4838 and 4839, Michigan will be better able to ensure that its student-athletes are protected from unscrupulous agents, by requiring all agents to register with the state, disclose pertinent information, and to operate in a manner that extends contractual protection to students while at the same time giving educational institutions in the state vital notice of a student's potential ineligibility. Under House Bills 4838 and 4839, LARA will have the authority to review, and to deny or refuse to renew, applications for registration or licensure, and to assess both civil and criminal penalties against agents that fail to comply with these rules. Finally, Michigan will be able to ensure that student-athletes, parents, and educational institutions have access to important consumer information regarding the background and representational history of a potential agent. These tools will help to protect both the student-athletes of the state, as well as its fine educational institutions.

The UAAA has been adopted in 42 states. The uniformity of the act is important in several ways. By having a standard set of disclosures and prohibited acts, professional sports agents will know what is expected of them in each jurisdiction where the uniform act is adopted. Also, under the uniform act, an agent can forward an updated copy of successful application for registration in one jurisdiction to any other jurisdiction where the act is also in place, reducing compliance costs for the agent and, in time, regulatory burdens on states accepting reciprocal registrations. In our research leading up to the drafting of the act, the Uniform Law Commission learned that prior to the UAAA, some 28 states had widely-varying rules applicable to athlete agents, and we found that most agents recruit from schools in multiple states. Accordingly a nationally-uniform set of rules is one of the reasons most legitimate agents are supportive of the UAAA.

House Bills 4838 and 4839 would protect educational institutions by granting schools a civil right of action against an athlete agent or student-athlete for damages caused by a violation of the act, including specifically, losses and expenses incurred as a result of penalties, disqualifications, or suspensions from play imposed as a result of a violation of an NCAA or other collegiate conference's rules. Also, the notice to schools required by the UAAA will help to protect the institution from being fined or suspended, by allowing it time to react to a student-athlete's decision to enter an agency relationship and thus lose eligibility.

I urge you to recommend the enactment of the Uniform Athlete Agents Act. Thank you for your time and consideration

Brian Lewis
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